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REFERENCE TITLE: **EORP; contributions; buybacks**

State of Arizona  
House of Representatives  
Forty-seventh Legislature  
First Regular Session  
2005

## **HB 2458**

Introduced by  
Representative Burns J

**AN ACT**

**AMENDING SECTIONS 38-801, 38-810 AND 38-816, ARIZONA REVISED STATUTES;  
RELATING TO THE ELECTED OFFICIALS' RETIREMENT PLAN.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 38-801, Arizona Revised Statutes, is amended to  
3 read:

4 38-801. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Accumulated contributions" means the sum of all member  
7 contributions deducted from the member's salary pursuant to section 38-810,  
8 subsection A plus the amount transferred to the fund on behalf of the member  
9 plus the amount deposited in the fund pursuant to section 38-816.

10 2. "Average yearly salary" means the result obtained by dividing the  
11 total salary paid to an employee during a considered period by the number of  
12 years, including fractional years, in which the salary was received. The  
13 considered period shall be the three consecutive years within the last ten  
14 completed years of credited service OR SERVICE WHERE NO CONTRIBUTIONS HAVE  
15 BEEN MADE which yield the highest average.

16 3. "Credited service" means the number of whole and fractional years  
17 of a member's service as an elected official after the elected official's  
18 effective date of participation for which member and employer contributions  
19 are on deposit with the fund, plus credited service as an elected official  
20 transferred to the plan from another retirement system or plan for public  
21 employees of this state, plus service as an elected official before the  
22 elected official's effective date of participation which is being funded  
23 pursuant to a joinder agreement in accordance with section 38-810, subsection  
24 C and section 38-815 or which was redeemed pursuant to section 38-816.

25 4. "Effective date of participation" means August 7, 1985, except with  
26 respect to employers and their elected officials whose contributions to the  
27 plan commence after that date, in which case the effective date of their  
28 participation in the plan is specified in the applicable joinder agreement.

29 5. "Elected official" means:

30 (a) Every elected official of this state.

31 (b) Every elected official of each county of this state.

32 (c) Every justice of the supreme court, every judge of the court of  
33 appeals, every judge of the superior court and every full-time superior court  
34 commissioner, except full-time superior court commissioners who failed to  
35 make a timely election of membership under the judges' retirement plan,  
36 repealed on August 7, 1985.

37 (d) The administrator of the fund manager if the administrator is a  
38 natural person.

39 (e) Each elected official of an incorporated city or town whose  
40 employer has executed a proper joinder agreement for coverage of its elected  
41 officials.

42 6. "Fund" means the elected officials' retirement plan fund.

43 7. "Fund manager" means the fund manager of the system.

44 8. "Pension" means a series of monthly payments to a person who is  
45 entitled to receive benefits under the plan.

1           9. "Plan" means the elected officials' retirement plan.

2           10. "Retired member" means a person who is being paid a pension based  
3 on the person's credited service as a member of the plan.

4           11. "System" means the public safety personnel retirement system.

5           Sec. 2. Section 38-810, Arizona Revised Statutes, is amended to read:

6           38-810. Contributions

7           A. Each member shall contribute to the fund an amount equal to seven  
8 per cent of the member's gross salary, **EXCEPT THAT CONTRIBUTIONS ARE NOT**  
9 **REQUIRED FROM AN ACTIVE MEMBER WHO IS ELIGIBLE FOR NORMAL RETIREMENT PURSUANT**  
10 **TO SECTION 38-805, SUBSECTION A, PARAGRAPH 3.** Contributions of members shall  
11 be made by payroll deductions. Every member is deemed to consent to these  
12 deductions. Payment of a member's compensation, less these payroll  
13 deductions, constitutes a full and complete discharge and satisfaction of all  
14 claims and demands by the member relating to remuneration for the member's  
15 services rendered during the period covered by the payment, except with  
16 respect to the benefits provided under the plan.

17           B. The fund manager's office shall be credited monthly with monies  
18 collected pursuant to section 12-119.01, subsection B, paragraph 2, section  
19 12-120.31, subsection D, paragraph 2 and section 12-284.03, subsection A,  
20 paragraph 6. The monies credited to the fund pursuant to this subsection  
21 shall be deposited in the fund on a monthly basis, and there shall be a  
22 complete accounting of the determination of these monies deposited in the  
23 fund.

24           C. As determined by actuarial valuations performed by the plan's  
25 actuary, each employer shall make level per cent compensation contributions  
26 sufficient under the actuarial valuation to meet both the normal cost plus  
27 the actuarially determined amount required to amortize the unfunded accrued  
28 liability over a rolling twenty year period beginning on July 1, 1997, except  
29 that, beginning with fiscal year 2001-2002, the employer contribution rate  
30 shall not be less than two per cent of salary. The monies deposited in the  
31 fund pursuant to subsection B of this section shall be used to reduce the  
32 contributions required of state and county employers only. Employers that  
33 entered the system under a joinder agreement shall also contribute an amount  
34 equal to the unfunded accrued liability for that employer. The unfunded  
35 liability for each new employer shall be actuarially determined by the plan's  
36 actuary as of the effective date of participation of each employer and shall  
37 be payable on the effective date of participation.

38           D. The department of administration and the treasurer of each county  
39 and participating city and town shall transfer to the fund manager the  
40 contributions provided for in subsections A and C of this section within ten  
41 working days after each payroll date. The state, county treasurers and  
42 clerks of the superior court shall transfer the monies credited under  
43 subsection B of this section to the fund manager on or before the fifteenth  
44 day of each calendar month that follows the month in which the court fees  
45 were collected. Contributions and monies credited under subsection B of this  
46 section and transferred after these dates shall include a penalty equal to

ten per cent per annum, compounded annually, for each day that the contributions or monies credited under subsection B of this section are late. Delinquent payments due under this subsection, together with interest charges as provided in this subsection and court costs, may be recovered by action in a court of competent jurisdiction against the person or persons responsible for the payments or, at the request of the fund manager, may be deducted from any other monies including excise revenue taxes payable to a political subdivision by any department or agency of this state. If requested by the fund manager, the state, county treasurers or clerks of the superior court shall transfer the monies credited under subsection B of this section, in an amount determined by the fund manager, directly to the qualified governmental excess benefit arrangement established pursuant to section 38-803.01.

E. The employer shall pay the member contributions required of members on account of compensation earned after August 7, 1985. The paid contributions shall be treated as employer contributions for the purpose of determining tax treatment under the United States internal revenue code. The effective date of the employer payment shall not be before the date the retirement plan has received notification from the United States internal revenue service that pursuant to section 414(h) of the United States internal revenue code the member contributions paid will not be included in gross income for income tax purposes until the paid contributions are distributed by refund or pension payments. The employer shall pay the member contributions from monies established and available in the retirement deduction account, which monies would otherwise have been designated as member contributions and paid to the retirement plan. Member contributions paid pursuant to this subsection shall be treated for all other purposes, in the same manner and to the same extent, as member contributions made before August 7, 1985.

Sec. 3. Section 38-816, Arizona Revised Statutes, is amended to read:

38-816. Redemption of prior service

A. Any present active elected official MAY ELECT TO REDEEM ANY PART OF THE FOLLOWING PRIOR SERVICE OR EMPLOYMENT BY PAYING INTO THE FUND THE AMOUNTS REQUIRED UNDER SUBSECTION B OF THIS SECTION: ~~who had previous~~

1. PRIOR service in this state as an elected official with an employer now covered by the plan before the effective date of participation ~~and who~~ IF THE ELECTED OFFICIAL has received a refund from a prior retirement system or plan on termination of employment before the elected official's application for redemption of prior service. ~~or who~~

2. PRIOR SERVICE IN THIS STATE AS AN ELECTED OFFICIAL WITH AN EMPLOYER NOW COVERED BY THE PLAN BEFORE THE EFFECTIVE DATE OF PARTICIPATION IF THE ELECTED OFFICIAL was not covered by a retirement system or plan during the elected official's prior elected official service ~~may elect to redeem any part of the prior service by paying into the fund any amounts required under subsection B of this section.~~

1           3. ~~Any present active elected official who has previous~~ PRIOR service  
2 as an elected official of this state or a city, town or county of this state  
3 ~~and who~~ IF THE ELECTED OFFICIAL was not covered by a retirement system or  
4 plan during that service whether or not the city, town or county is an  
5 employer now covered by the plan ~~may elect to redeem any part of the prior~~  
6 ~~service by paying into the fund any amounts required under subsection B of~~  
7 ~~this section.~~

8           4. PRIOR EMPLOYMENT WITH THE UNITED STATES GOVERNMENT, A STATE OF THE  
9 UNITED STATES OR A POLITICAL SUBDIVISION OF A STATE OF THE UNITED STATES.

10          B. Any present active elected official who elects to redeem any part  
11 of the prior service OR EMPLOYMENT for which the elected official is deemed  
12 eligible by the fund manager under this section shall pay into the plan the  
13 amounts previously withdrawn by the elected official as a refund of the  
14 elected official's accumulated contributions, if any, plus the additional  
15 amount, if any, that is computed by the plan's actuary and that is necessary  
16 to equal the increase in the actuarial present value of projected benefits  
17 resulting from the redemption calculated using the actuarial methods and  
18 assumptions ~~adopted by the fund manager in accordance with section 38-803,~~  
19 ~~subsection A, paragraph 2~~ THAT ARE PRESCRIBED BY THE PLAN'S ACTUARY.

20          C. Upon approval by the governing body of an incorporated city or town  
21 which executes a joinder agreement under section 38-815, the city or town may  
22 pay into the fund all or any part of the amount sufficient to provide  
23 retirement benefits for elected officials or former elected officials for the  
24 time of service as an elected official of the city or town prior to the  
25 joinder agreement if no retirement benefits were in effect for elected  
26 officials during the time of service being redeemed under this section.